



SACRAMENTO-SAN JOAQUIN
DELTA CONSERVANCY

3500 Industrial Blvd.
West Sacramento, CA 95691
<http://www.deltaconservancy.ca.gov>

Update Regarding Delta Conservancy Comments on the draft Delta Plan

Requested Action: Receive a compilation of all Comments to the draft Delta Plan sent to Delta Stewardship Council.

Purpose

The purpose of this document is to compile and track all comments submitted to the Delta Stewardship Council by the Delta Conservancy for each version of the draft Delta Plan.

Attachments

Attachment 9.3: **Delta Conservancy staff comments on third staff draft Delta Plan released on April 22, 2011**

Attachment 9.3a: **Updated Delta Conservancy Schedule for Delta Plan Comments**

Contact

Cindy Messer, Assistant Executive Officer
Sacramento-San Joaquin Delta Conservancy
(916) 375-2090

Page; Line No.	Comment, Suggested Addition, or Edit	Status
68; 3 – 17, ERR2	Reference to economic sustainability has been removed from previous drafts. Given that economic sustainability is included in our legislation we recommend that it be included here. "Develop and adopt criteria for prioritization and integration of large-scale ecosystem restoration in the Delta, with economic sustainability and use of best available science as foundational principles."	
108; 22-25	"Targeted finance plans should be developed for major Delta Plan activities (habitat restoration, flood risk reduction, regional	.

Meeting Date: June 15, 2011

Page 2

	water supply investments, and water conveyance.) Beneficiaries and stressors should be identified in each of these areas, and user fees should be developed to match these stressors and beneficiaries with planned investments in each of these areas.” Who will develop these plans (DSC, multi-agency efforts by topic)?	
110, 111 and 112	It is not clear which funding sources are for funding projects and which are for funding operations. Further, it is not clear if the \$50 million is a onetime allocation or ongoing.	
110; 17-21	“Continuing the existing operational duties imposed by the 2009 Delta Protection Act. The Act created the Delta Stewardship Council (which includes the Delta Science Program and Independent Science Board) and the Delta Conservancy, and modified the duties of the existing Delta Protection Commission. Annual costs for the operation of all of these functions are approximately \$XX million per year.” What do these annual estimates include (operations, project implementation, etc.)?	
111; 19-21 FP R1	“No less than \$50 million should be allocated from existing bond funds, or from any new funds authorized by voters to the Delta Conservancy to commence implementation of the ecosystem restoration portion of the Delta Plan.” Is this a onetime allocation or annual, is it start up for operations or does it include project funds, and how would it impact spending of much greater available funding if bonds pass. If project funds, how will priorities be established for implementing restoration projects (the 5 high priority areas defined for ecosystem restoration)? What is the timeline envisioned that these funds will cover in the implementation process (5 years, 10 years, longer)?	
112; 14-16 FP R4	“The Legislature should allocate \$50 million of Prop. 1E funds to the Department of Water Resources and direct the Department to begin the acquisition of land or easements for the proposed San Joaquin/South Delta Flood Plain.” Is this a one time or annual allocation and how does it affect future bond funding? The Department of Water Resources should consider partnering in this effort with the Department of Fish and Game and the Delta Conservancy who will share responsibility for implementing ecosystem restoration efforts in the San Joaquin/South Delta Flood Plan.	
112; 26-33 FP R7	User Fees/Stressors Fees to support the coequal goals and the Delta Plan. ○ “The Legislature should grant the Council the	

	<p>authority to develop reasonable fees for beneficiary, and reasonable fees for those who stress the Delta ecosystem, and apply such fees to the operational costs of the Council, the Delta Conservancy and the Delta Protection Commission to allow implementation of the Delta Plan.” What are the envisioned mechanisms for estimating, dividing and transferring funds to the Delta Conservancy for operational costs?</p> <ul style="list-style-type: none"> ○ “The costs of operations of the Council, Delta Conservancy, and Delta Protection Commission should be advanced for a period of ten (10) years. As previously discussed, the unified budget of the new governance structure is approximately \$XX million.” Please provide a more detailed description of the “unified budget”. Who will estimate required dollar amount, how will the dollars be divided between the agencies and over what time? What will the annual operational estimates include? 	
--	--	--

Delta Conservancy staff comments on second staff draft Delta Plan released on March 18, 2011

Page; Line No.	Comment, Suggested Addition, or Edit	Status
33; 9-16	Provide the context of the ERP Stage 2 document as the only currently published set of objectives and recognize the work done in BDCP and by the Blue Ribbon Panel and the degree to which you think there is consistency among the efforts.	
33-35;	<p>Comment: These policies are related to water supply and floodplain management with the attendant interaction (i.e., afterthought) with the environment and ecosystem. The DSC needs to consider including ecosystem policies that address the ecosystem as an <i>a priori</i> reason with attendant water supply and floodplain management interaction.</p> <p>Suggested addition: For example:</p> <p><i>ER PX1. Ecosystem services are vital to a healthy Delta and should be a top criterion in consistency determination and project selection for funding. Ecosystem services include</i></p>	

Meeting Date: June 15, 2011

Page 4

	<p><i>providing production of goods (fish, agriculture, water), life support processes (pollination, flood control, water purification, carbon sequestering), conservation of options for the future (genetic diversity), and life-fulfilling conditions (nature, beauty, serenity).</i></p> <p><i>ER PX2. Restoring natural river flows should use the DRIFT classifications in describing their efforts, and the Delta Plan will adopt the classifications for consistency determinations; a classification of "C" is necessary for consistency. DRIFT (downstream responses to imposed river transformations) uses models to calculate downstream response to imposed flow changes and quantifies sustainability boundaries to determine the affects of water management decisions on the ecosystem. Class "D" river systems are heavily modified and no longer resilient; class "A" are natural, unmodified rivers. The Delta Plan strives for a rating of Class "B" for the Delta, which allows shared, responsible human use of water along with environmental uses.</i></p>	
34: 3-17	Should mention the Suisun Marsh Habitat Management, Restoration and Preservation Plan. Their objectives are to restore 7,000 to 9,000 acres of tidal habitat, but do not preclude restoration of additional habitat.	
34; 26-28	<p>Comment: In ER P4, do not include setback levees as a parenthetical statement</p> <p>Suggested edit: "[...] existing levees shall evaluate and incorporated, where feasible, alternatives such as set back levees, artificial floating islands placed adjacent to levees, or other innovative methods of combining flood safety needs with riparian habitat needs.</p>	
34; 29-36	<p>Comment: In the last sentence of this paragraph, the DSC is saying, in effect, that no diversion projects in the Delta started between 2012 and 2018 are consistent with the Delta Plan and it is silent regarding how—or if—projects will need to be changed if the SWRCB adopts new flow standards. This amounts to a moratorium on diversion projects in the Delta since who would spend money for diversions projects (e.g., peripheral canal) in 2012, if it can be deemed inconsistent 5 years later? Suggested edit: Add: <i>Projects deemed consistent with the ERP Conservation Strategy or similar ecosystem restoration plans will not be deemed inconsistent with the Delta Plan if new flow standards are not in place by 2018.</i></p>	
35; 13-16	Comment and Suggested edit: Delete the last sentence to ER R2. It is redundant in light of reference back to Chapter 2.	
35; 17-22	Comment: Define "principles of resilience." What is the baseline condition that will be used to determine "in the face of a changing Delta" that a key decision is made using the principles of resilience? Clarify what is meant by the last sentence in ER R3. In the face of change (and black swan events—e.g. Japan's earthquake and tsunami in March 2011)	

	how could anyone reasonably predict if a development will meet the state's needs for the next 50 years? Suggested addition: In addition to defining the principles of resilience, delete the last line of ER R3.	
35:23-26	We were not sure if you have had coordination discussion with WCB. If not, consider having the Delta Conservancy play the lead role with WCB participation. If amenable we would include this bullet as an item in ER R7, as a component of our Strategic Plan.	Comment was incorporated into 3/18/11 plan
35; 23-26	Comment: In its interim strategic plan, the Delta Conservancy Board stated its intent for the Conservancy to be the primary state agency to lead ecosystem restoration efforts, including coordination between and among state and federal agencies, local agencies, and non-governmental agencies. Currently the Conservancy is developing for its completed strategic plan land ownership and management protocols, criteria, and performance measures in conjunction with DFG (of which WCB is a part), DWR, locals, and land trusts. Suggested addition: <i>The Delta Conservancy, in its leadership role, should continue to work with the Department of Water Resources, Department of Fish and Game, and other State and 24 local agencies, in developing and refining its strategic plan and protocol for acquiring or managing the land necessary to achieve ecosystem restoration consistent with the Conservancy's co-equal responsibilities as well as the coequal goals and the Draft ERPCS.</i>	
35:27-37	The Delta Conservancy Strategic Plan should include: <ul style="list-style-type: none"> a. Develop criteria for prioritization and integration of large-scale ecosystem restoration in the Delta; with economic sustainability and use of best available science as foundational principles b. Methods and processes for ownership and long term operations and management of restored and/or conserved land in Delta and Suisun Marsh c. Secure long term financing for programs and projects to include covering costs of long term operations and management and "Payment in Lieu of Taxes" d. Development of an approach to coordinate the implementation efforts of the Conservancy with DWR, DFG, Federal interests and other State and local agencies 	Comments were incorporated into 3/18/11 plan, changed slightly in 4/22/11 draft
50: Table 9-1	We note that there is no budget information provided for the Delta Conservancy at this time. Do you anticipate including our financial information in the next draft?	Table 9-1 revised in 3/18/11 draft, no longer includes DC budget info
61:9	While we would certainly welcome funding from any sources, specifically identifying fines and forfeitures as possible sources in this bullet is limiting and potentially damaging to our initial	

	crucial task of developing relationships and partnerships. Earlier statements that include exploring all potential sources are more appropriate. We would recommend eliminating the bullet, eliminating the Conservancy from the bullet, or including all three Delta agencies in the bullet.	
--	---	--

Delta Conservancy Comments on first draft Delta Plan, February 14, 2011

(Delta Conservancy staff comments reviewed and approved by Strategic Plan and Policy Subcommittee on 3/11/11)

Overall:

- No mention of the Delta Conservancy and its role in implementing and assisting with developing the Delta Plan (WC Sections 85210(h); 85212; 85300(b); 85302(h); and 85320(g)).

Page; Line No.	Comment, Suggested Addition, or Edit	Status
1-3; 14-40	Comment: Legislative quotes taken from SBX 7 1, sections dealing with the Delta Protection Commission and the DSC; similar language in the Conservancy's section was not selected. Suggested addition: add <i>The Delta's history is rich with a distinct natural, agricultural, and cultural heritage. It is home to the community of Locke, the only town in the United States built primarily by early Chinese immigrants. Other legacy communities include Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isletown, Knightsen, Rio Vista, Ryde, and Walnut Grove.</i> (Public Resources Code Section 32301(f))	This section in 3/18/11 draft plan changed, comment no longer applicable.
1-4; 6-11	Comment: what are the consistent conclusions to the sentences beginning with "While some policy implications..." Suggested edit: "While some of the policy implications of these studies are disputed, the studies' underlying conclusions are consistent: Delta resources are at risk. These resources include water supplies and ecosystem health, levees that provide public and infrastructure safety, and the base of the Delta's economy—agriculture."	This section in 3/18/11 draft plan changed, comment no longer applicable.
1-4; 15	Comment: In its interim strategic plan, the Delta Conservancy acknowledges that the Delta is a diverse region and is not a "one size fits all" sort of place. Suggested edit: delete "of the community" and change to "of its communities."	This section in 3/18/11 draft plan changed, comment no longer applicable.
2-2; 35	Comment: The tone and language of SBX7 1 is one of cooperation and collaboration across several state agencies, and specifically among the Delta Protection Commission, the	.

Meeting Date: June 15, 2011

Page 7

	Delta Conservancy, and the Delta Stewardship Council. Water Code Section 85204 says: <i>The council shall establish and oversee a committee of agencies responsible for implementing the Delta Plan. Each agency shall coordinate its actions pursuant to the Delta Plan with the council and the other relevant agencies.</i> The council has established a committee with DPC and the Conservancy and others to coordinate planning and implementation efforts, and this is a good place to acknowledge that progress. Suggested edit: delete the first sentence about the council being the agency to implement the Delta Plan and replace it with the statute language; then add <i>In addition, the Council has established committees with state and federal agencies, including the Delta Conservancy and the Delta Protection Commission, to coordinate planning and implementation efforts.</i>	
2-4; 17	Comment: Why is Santa Clara's HCP/NCCP included in this list? Suggested addition: add Yolo County to the list of HCP/NCCPs; delete or explain why Santa Clara's is on the list.	This section in 3/18/11 draft plan changed, comment no longer applicable.
6-1; 3-8	Suggested addition: add the Delta Conservancy's interim strategic plan to the list of ongoing work from which the Council will receive input	This section in 3/18/11 draft plan changed, comment no longer applicable.
6-1; 15	Comment: define "ecosystem services"	
6-1; 18	Comment: define "resilience"	
6-1; 18-19	Suggested edit: Actions taken from this point forward will contribute to defining <i>determining</i> the future Delta and the health of its ecosystem.	
6-1; 25-26	Suggested addition: Insert new paragraph: <i>The Sacramento-San Joaquin Delta Conservancy is charged to act as a primary state agency to implement ecosystem restoration in the Delta (Public Resources Code Sec. 32322). In its recently completed interim strategic plan, the Delta Conservancy developed its vision and mission statements regarding its leadership role in achieving ecosystem restoration in the Delta. The interim strategic plan also lists the Delta Conservancy's guiding principles for how it will pursue its mission and vision through collaboration and cooperation with local, state, federal, and other interested parties.</i>	
6-3; 18	Comment: using the subheading "Findings" is problematic and gives the impression of the Delta Plan as being pre-decisional before the environmental impact report is out. Suggested edit: change "Findings" to "Declaration."	"Findings" is still used in 3/18/11 draft.

Meeting Date: June 15, 2011

Page 8

6-3; 20-22	Comment: This first sentence does not strongly support the declaration and lets the reader infer that the habitat that currently exists is not natural. Suggested edit: <i>The Delta was transformed more than 100 years ago from a vast, complex, and diverse system of meandering sloughs and habitats into its more engineered and homogeneous waterways and habitats.</i>	
6-3; 30	Suggested addition: build your "Reference" or "Works Cited" section as you produce the drafts of the Delta Plan so readers can identify which specific work is being cited.	Included in 4/22/11 draft.
6-3; 33	Comment: the last part of the sentence "...restoration to the historical Delta is not possible" is accurate and actually highlights some of the conflicting goals in the Delta. For example, attempting to restore the Delta to its historic ecosystem would reduce drinking and agricultural water quality for many in the region.	
6-3; 35	Comment: "regime shift," while accurate, is scientific jargon. Suggested edit: In addition, recent evidence related to the Pelagic Organism Decline suggests that the <i>ecosystem's food chain</i> has undergone a regime shift . Comment: add definition of Pelagic Organism Decline.	
6-4; 1-24	Comment: These three bulleted declarations are precisely what the Delta Conservancy is promoting in interim strategic plan and will develop policies and priorities for as it completes the final version of its strategic plan. The Delta Conservancy anticipates that the policies and priorities it develops around these three declarations will be included in the Delta Plan, pursuant to Water Code Sections 85300(b) and 85302(h).	
6-5; 28-38	Comment: This section also needs to include migratory corridors for terrestrial and avian species, not just fish species. The Delta Conservancy will assist in developing additional text in future versions of the Delta Plan.	
6-6; 32-38	Comment: In completing its strategic plan, the Delta Conservancy will be addressing climate change policies regarding Delta ecosystem restoration and anticipates that this will be included in the final Delta Plan.	Suggest adding to 3/18/11 draft, page 35, lines 27-37
6-7; 1-18	Comment: Under the Sacramento-San Joaquin Delta Conservancy Act (Public Resources Code 32300 et seq.), the Delta Conservancy is required to carry out ecosystem and habitat restoration, facilitate safe harbor agreements, and support water quality efforts; the Delta Conservancy is also allowed to own and manage land in the Delta. Given its statutory mandates, the Delta Conservancy is actively pursuing establishing policies and priorities in several of the listed categories. The Delta Conservancy anticipates that the policies and priorities it develops, especially around the categories of land acquisition, habitat restoration, streamline permit processes, safe harbor agreements, and water quality, will be included in the Delta Plan, pursuant to Water Code	Some of these categories added to 3/18/11 draft, page 35, lines 27-37. Suggest adding remaining categories such as permits, safe

	Sections 85300(b) and 85302(h).	harbor agreements, water quality in 3/18/11 draft.
9-1; 27-28	Comment: define “inappropriate recreational use”	
9-4; 11-22	Comment: The Delta Conservancy is the state agency leading the effort to coordinate Delta planning efforts. Under Public Resources Code Section 32360(b)(3), the Conservancy may fund a program within the Conservancy for economic sustainability in the Delta, based on the Delta Protection Commission’s economic sustainability plan. The Delta Conservancy is in a position to lead the collaboration and cooperation in coordinating local planning efforts with regional, state, and federal planning efforts.	
9-5; 29-31	Suggested edit: About 75 percent of the Delta’s total land area is Prime Farmland, the <i>category designating the most productive category of type of farmland</i> . The division of agricultural lands into smaller parcel sizes adversely affects the viability of agriculture <i>and also interferes with migratory trails for terrestrial species</i> .	
9-7; 25-39	Comment: Under the Sacramento-San Joaquin Delta Conservancy Act (Public Resources Code 32300 et seq.), the Delta Conservancy is required to support efforts that advance environmental protection and the economic well-being of Delta residents. Given its statutory mandates, the Delta Conservancy is actively pursuing establishing policies and priorities in several of the listed categories. The Delta Conservancy anticipates that the policies and priorities it develops, especially around the categories of protecting and preserving Delta agriculture and working landscapes; providing increased opportunities for tourism and recreation; and promoting Delta legacy communities and economic vitality in the Delta in coordination with the Delta Protection Commission, will be included in the Delta Plan, pursuant to Water Code Sections 85300(b) and 85302(h).	